



STATE OF LOUISIANA  
DEPARTMENT OF STATE CIVIL SERVICE  
**LOUISIANA BOARD OF ETHICS**  
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January 24, 2017

Wallace Sibley  
Quad Area Community Action Agency, Inc.  
45300 North Baptist Road  
Hammond, LA 70401

**Re: Ethics Board Docket No. 2016-1045**

Dear Mr. Sibley:

The Louisiana Board of Ethics, at its January 20, 2017 meeting, considered your request for an advisory opinion regarding whether Quad Area Community Action Agency, Inc.'s (Agency) employees and members of its Board of Directors are required to take the annual ethics training, in accordance with La. R.S. 42:1170A. You provided the following information for consideration in connection with your request:

The Agency is a private, non-profit community action agency that has operated in Louisiana since 1976. It administers federal grants to assist low-income, needy, elderly, and disabled residents various parishes including Ascension, East Feliciana, Livingston, St. Helena, Tangipahoa, Washington, and West Feliciana. The following federal grants are awarded to the Agency through the State of Louisiana:

1. Low Income Home Energy Assistance Program (LIHEAP) – federal funds received through the Louisiana Housing Corporation (LHC) to assist low income households in offsetting the burden of high energy costs.
2. Weatherization Assistance Program (WAP) – federal funds received through LHC insulate the dwellings of low income persons particularly the elderly and handicapped, in order to aid those persons least able to afford higher energy costs and to conserve energy.
3. Adult Education Program (AEP) – federal funds received through the Louisiana Community and Technical College System (LCTCS) to prepare individuals for GED testing, allowing them to raise their education level to successfully enter the workforce.
4. Community Service Block Grant (CSBG) – federal funds received through the Louisiana Workforce Commission (LWC) to support the Agency's administration

and programmatic issues that other grants do not provide. Additionally, the Agency provides services for emergency assistance, including rent/mortgage, utility assistance and food; life alert systems and fans/heaters for the elderly; book sacks to children for the current school year.

For LIHEAP, WAP, AEP, and CSBG, the federal agencies dictate the program requirements and the state agencies serve in a supervisory capacity with limited discretion. The duties performed by the state agencies are ministerial and they simply serve as a conduit through which federal funds are disbursed to non-profits like the Agency, which actually carry out the functions and purposes of the programs.

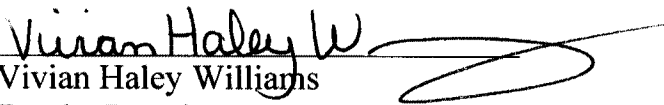
The Board concluded, and instructed me to inform you, that the Agency is not a governmental entity subject to the Code of Governmental Ethics. The Louisiana Supreme Court, in *PIAL v. Theriot*, 99-1152 (La. 2010), found that all of the following four factors, originally set forth in *State v. Smith*, 357 So.2d 505 (La. 1978), must be present in order to find that an entity is public: (1) whether the entity was created by the legislature; (2) whether its powers were specifically defined by the legislature; (3) whether the property of the entity belongs to the public; and (4) whether the entity's functions are exclusively of a public character and performed solely for the public benefit. The Agency was not created by the legislature, its powers were not specifically defined by the legislature, and its property does not belong to the public. Therefore, the Agency is not a governmental entity subject to the Code.

The Board further concluded, and instructed me to inform you, that the Agency's employees and board members are not "public employees" and thus are not required to take the annual training on the Code of Governmental Ethics. La. R.S. 42:1170A requires each public servant to receive a minimum of one hour of education and training on the Code of Governmental Ethics during each year of his public employment or term of office, as the case may be. La. R.S. 42:1102(19) provides that "public servant" means a public employee or an elected official. La. R.S. 42:1102(18)(a) provides that "public employee" means anyone, whether compensated or not, who is: (i) an administrative officer or official of a governmental entity who is not filling an elective office; (ii) appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof; (iii) engaged in the performance of a governmental function; or (iv) under the supervision or authority of an elected official or another employee of the governmental entity. The duties performed by the state agencies are ministerial and they simply serve as a conduit through which federal funds are disbursed to the Agency, which actually carries out the functions and purposes of LIHEAP, WAP, AEP, and CSBG. Therefore, the Agency's employees and board members are not public employees and thus are not required to take the annual ethics training, pursuant to La. R.S. 42:1170A.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

  
Vivian Haley Williams  
For the Board